



U.S. Department of Justice

Immigration and Naturalization Service



OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

**Public Copy**



File: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: MAR 20 2000

IN RE: Applicant: [REDACTED]

Petition: Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. 1203

IN BEHALF OF APPLICANT: [REDACTED]

Identifying case deleted to  
prevent clearly unwarranted  
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrance M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Egypt, who seeks to obtain a reentry permit under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1203. The director denied the application for a reentry permit after determining that the application was filed after the applicant had departed the United States. The application was filed with the Service on August 21, 1997.

On appeal, the applicant's representative states that the Service's interpretation of the regulations used to deny reentry permits is incorrect.

In pertinent part, section 223 of the Act provides that an alien lawfully admitted for permanent residence who intends to visit abroad and return to the United States to resume that status may make an application for a permit to reenter the United States. The statute also requires that the application be made in good faith and that the applicant's proposed departure would not be contrary to the interests of the United States. A reentry permit allows a permanent resident to apply for admission to the United States upon his or her return from a trip abroad during the period of the permit's validity without the necessity of obtaining a returning resident visa.

With certain exceptions<sup>1</sup>, regulations at 8 C.F.R. 223.2(b) allow for the approval of a reentry permit if the application (Form I-131) is filed by a lawful permanent resident or conditional permanent resident. The applicant must also be in the United States at the time of his or her application. Id.

8 C.F.R. 103.2(a)(7)(i) provides that an application received in a Service office shall be stamped to show the time and date of actual receipt and shall be regarded as filed when so stamped, if it is properly signed and executed and the required fee is attached or fee waiver is granted.

The record indicates that on December 5, 1997 the Service requested evidence of the applicant's actual departure date. The response

---

<sup>1</sup>See 8 C.F.R. 223.2(c) providing ineligibility where (1) a prior reentry permit is still valid, (2) certain extended absences have been taken by the applicant, or (3) the applicant is entitled to nonimmigrant diplomatic or treaty status and has not submitted the applicable waiver and/or tax exemption form. A review of the record reveals that none of these exceptions to the approval of a reentry permit is present in the matter at hand.

indicated that the applicant's last departure from the United States was on June 24, 1997.

No evidence was submitted to show that the applicant had returned to the United States prior to the filing of the application. Additionally, the record shows that on August 21, 1997, the date this application was filed with the Service, the applicant was in possession of a reentry permit valid to November 29, 1997. 8 C.F.R. 223.2(c)(1) provides that an application for a reentry permit or refugee travel document shall be denied if the applicant was previously issued a reentry permit or refugee travel document which is still valid, unless it was returned to the Service or it is demonstrated that it was lost. For these reasons the application for a reentry permit may not be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361. The applicant has not met that burden.

**ORDER:** The appeal is dismissed.